

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

KENNETH LEE CRONK,

Plaintiff,

v.

CITY OF WEST RICHLAND,

Defendant.

NO: 12-CV-5094-TOR

ORDER DENYING PLAINTIFF'S
MOTION FOR ORDER OF
PROTECTION

BEFORE THE COURT is Plaintiff's Motion for an Order of Protection.

ECF No. 2. This matter was heard without oral argument on August 3, 2012. The Court has reviewed the motion and the response, and is fully informed.

BACKGROUND

Plaintiff, Kenneth Lee Cronk, has filed a lawsuit against the City of West Richland claiming violations of his constitutional rights and his rights under the American with Disabilities Act. ECF No. 1. Presently before the Court is his motion for "an order of protection directed to the Defendant to cease and desist

1 from all previous and future illegal, unconstitutional and unjust actions, threats and
2 intimidations.” ECF No. 2 at 2.

3 A preliminary injunction may be granted in order to “preserve the status quo
4 ante pending a determination of the action on the merits.” *Los Angeles Memorial*
5 *Coliseum Comm’n v. National Football League*, 634 F.2d 1197, 1200 (9th Cir.
6 1980). The “traditional test” applied by the district court when the case involves
7 the public interest is: “(1) the likelihood that the moving party will prevail on the
8 merits, (2) whether the balance of irreparable harm favors the plaintiff, and (3)
9 whether the public interest favors the moving party.” *Caribbean Marine Services,*
10 *Co., Inc. v. Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988).

11 First, in this early stage of the proceedings, the Court finds insufficient
12 evidence in the record to find it “likely” that the Plaintiff will prevail on merits.
13 His complaint provides no evidence of a disability or a failure by the Defendant to
14 accommodate a disability.

15 Second, “speculative injury does not constitute irreparable injury sufficient
16 to warrant granting a preliminary injunction. A plaintiff must do more than merely
17 allege imminent harm sufficient to establish standing; a plaintiff must *demonstrate*
18 immediate threatened injury as a prerequisite to injunctive relief.” *Id.* (emphasis in
19 original)(internal citations omitted). Here, Plaintiff refers to “several occasions” of
20 “inappropriate physical force” by Defendant, as well as “illegal threats” and

1 “denying the Plaintiff use and access to public areas and facilities for no legal
2 cause.” ECF No. 2 at 1. In addition, Plaintiff states that he was “in essence
3 assaulted” on June 8, 2012 which caused “ongoing physical deterioration of his
4 disabilities.” *Id.* However, these are allegations of past harm to the plaintiff. Thus,
5 Plaintiff fails to demonstrate the requisite immediate threatened injury.

6 Third, the Court finds that the public interest does not favor the moving
7 party, indeed, the public interest would not be served any discernible way by
8 granting a preliminary injunction. For all the foregoing reasons, Plaintiff’s Motion
9 for an Order of Protection is denied.

10 **ACCORDINGLY, IT IS HEREBY ORDERED:**

11 1. Plaintiff’s Motion for Order of Protection, ECF No. 2, is **DENIED**.

12 The District Court Executive is hereby directed to enter this Order and
13 provide copies to the parties.

14 **DATED** this 10th day of August, 2012.

15 *s/ Thomas O. Rice*

16 THOMAS O. RICE
17 United States District Judge
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